EXCLUSIVE NEGOTIATION AGREEMENT

(COLONY PARK: DEVELOPMENT PARCEL H-14A)

By and Between the

ANAHEIM REDEVELOPMENT AGENCY

and

BROOKFIELD SOUTHLAND HOLDINGS LLC
EXCLUSIVE NEGOTIATION AGREEMENT

(Colony Park: Development Parcel H-14A)

This EXCLUSIVE NEGOTIATION AGREEMENT (Colony Park: Development Parcel H-14A) (this “Agreement”), dated for purposes of identification only as of June 1, 2008 (the “Date of Agreement”), is hereby entered into by and between the ANAHEIM REDEVELOPMENT AGENCY, a public body, corporate and politic, (the “Redevelopment Agency”) and BROOKFIELD SOUTHLAND HOLDINGS LLC, a Delaware limited liability company, (the “Developer”).

RECITALS

A. The Redevelopment Agency owns those approximately twelve (12) acres generally located at the southeast corner of Santa Ana Street and Olive Street in the City of Anaheim, California (the “Site”). The Site is depicted on the Map which is attached hereto as Exhibit A and incorporated herein by this reference.

B. The Developer is interested in acquiring and developing the Site as a residential development consisting of approximately one hundred thirty-five (135) to two hundred fifteen (215) residential units (the “Project”).

C. The Redevelopment Agency and the Developer (each, a “Party” and jointly, the “Parties”) desire to jointly explore the feasibility of the Project and negotiate an agreement or agreements to provide for the Project (a “Definitive Agreement”).

D. The primary purpose of this Agreement is to establish a period during which the Parties shall negotiate the terms of a Definitive Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. Negotiating Period. The Parties agree to negotiate diligently and in good faith with one another for a ninety (90) day period commencing upon the Effective Date of this Agreement (as hereinafter defined in Section 18) (the “Negotiating Period”), in order to agree upon a mutually acceptable Definitive Agreement.

The Parties, by written agreement of the Developer and the Executive Director of the Redevelopment Agency (the “Executive Director”), may extend the Negotiating Period for up to two (2) additional periods of thirty (30) days each. The term “Negotiating Period” as used herein shall include any extensions of such Negotiating Period pursuant to this Section.

If a Definitive Agreement acceptable to the Developer and the Executive Director is executed and submitted by the Developer within the Negotiating Period, then the term of the Negotiating Period and this Agreement shall automatically be extended for a period of forty-five (45) days from the date of such submittal to enable the Redevelopment Agency’s staff to take and
coordinate the actions necessary to bring the Definitive Agreement before the Governing Board of the Redevelopment Agency for consideration, action, and authorization to execute, if such are approved by such entity.

Section 2. Certain Parameters for Negotiations. The following nonexclusive list of items related to the Project shall be the subject of negotiations during the Negotiation Period:

(A) site plan for the Project (depicting building locations, elevations, building square footages and unit mix, parking, access points, landscaped areas, and pedestrian and vehicular circulation);

(B) pro forma for the Project (addressing detailed development and operational costs, anticipated sales price for each unit type, anticipated sales schedule, estimated profit and appropriate return measurements);

(C) the price which the Developer will pay (the “Purchase Price”) for the acquisition of the Site (based upon a residual land value for the Site using costs associated with development of the Project) and terms and conditions of the conveyance of the Site to Developer;

(D) financing plan for the Project (addressing the proposed methods of construction financing, and amounts and sources of equity and debt capital);

(E) marketing plan for the Project (addressing preferences given to persons who live or work in Anaheim); and

(F) development schedule for the Project.

Section 3. Developer's Submission of Documents for Redevelopment Agency Review and Comment. Within forty-five (45) days of the Effective Date of this Agreement, the Developer shall submit the following information to the Redevelopment Agency or its agents:

(A) a proposed site plan;

(B) a pro forma;

(C) a financing plan;

(D) a marketing plan; and

(E) a development schedule.

In the event that the Redevelopment Agency requests that changes be made, the Developer shall resubmit a revised site plan, pro forma, financing plan, marketing plan and/or development schedule to the Redevelopment Agency which shall respond to the Redevelopment
Agency’s comments on the initial version of each submission. The Redevelopment Agency shall review and either approve such submissions or return the submissions to the Developer for further revision as soon as practical but in any event within twenty (20) days.

The Developer acknowledges and agrees that design and architectural review by the Redevelopment Agency and its consultants will be required at each stage of the development of The Project and that sketches, plans, and ultimately working drawings, specifications and similar documents will be required to be submitted for review and approval pursuant to the Definitive Agreement (the “Redevelopment Agency’s Design Review”). The Developer further acknowledges and agrees that the City of Anaheim (the “City”), acting under its general police powers as a municipal corporation, may conduct a similar review and that building design, including, but not limited to, the selection of building elevations, construction materials, parking layout and landscaping will not be final until approved by City. The Developer further acknowledges and agrees that the Redevelopment Agency’s Design Review shall be rights exercisable by the Redevelopment Agency distinct and separate from those additional rights which the City may exercise under its general police powers as a municipal corporation.

Section 4. Redevelopment Agency Evaluation of Developer’s Proposal and Drafting of Definitive Agreement. Upon the Redevelopment Agency receipt of the last of Developer’s submissions as provided in Section 3 hereof, Redevelopment Agency shall conduct or cause to be conducted a complete economic evaluation of Developer’s submittals and proposed Project; within fifteen (15) days of the date on which the Redevelopment Agency receives the last such submittal, Redevelopment Agency shall elect to either (i) terminate this Agreement in accordance with Section 8.3 hereof, or (ii) continue negotiating hereunder in order to consummate the drafting of a Definitive Agreement.

Section 5. Environmental Requirements. Certain state and local environmental requirements (including, without limitations, the California Environmental Quality Act, Public Resources Code Sections 21000, et seq.) may be applicable to the proposed Project. Pursuant to such requirements, certain environmental documents may be required to be prepared for the proposed Project. The Developer agrees to cooperate with the Redevelopment Agency in obtaining information to determine the environmental impact of the proposed Project and at the Developer’s sole cost and expense, to pay all costs incurred by the Redevelopment Agency to prepare or cause to be prepared such environmental impact documents, if any, as may need to be completed for the proposed Project (collectively, “CEQA Documentation”). Redevelopment Agency agrees to cooperate with the Developer to act as lead agency, if practical.

Section 6. Hazardous Materials Assessment. The Redevelopment Agency has received various environmental assessments of the Site (the “Redevelopment Agency’s Environmental Assessments”) which the Redevelopment Agency shall submit to the Developer; the list of the Redevelopment Agency’s Environmental Assessments is set forth in the “List of Redevelopment Agency’s Environmental Assessments” which is attached hereto as Exhibit B and incorporated herein by this reference. Either Party may conduct or have conducted environmental assessments, audits and/or testing on the Site, provided that prior to Developer’s entry onto the Site to conduct such tests, Developer and the Redevelopment Agency shall have entered into a mutually acceptable right of entry agreement providing for such testing.
Either Party shall have the right to terminate this Agreement if such Party is not satisfied with the findings and the recommendations made in any environmental assessments.

Section 7. Cooperation. The Parties agree to cooperate with each other in promptly supplying information and analyses relating to the Project.

Section 8. Effect of this Agreement; Termination.

8.1 Nature of Agreement. This Agreement is not intended to constitute a binding agreement by the Redevelopment Agency or the Developer to convey all or any portion of the Site or to construct the Project, nor is it intended to constitute a binding agreement to enter into a Definitive Agreement or any other contract. Except as set forth in the Definitive Agreement, no Party shall be legally bound to consummate the conveyance of the Site or the construction of the Project as outlined herein unless and until a Definitive Agreement or other contract has been executed and delivered by the Parties. Notwithstanding any other provision hereof, neither the Developer nor the Redevelopment Agency shall be under any obligation to approve or execute any Definitive Agreement during or upon conclusion of the Negotiating Period. Any Party may refuse to approve and execute any Definitive Agreement at its sole and absolute discretion, with or without cause. In the event that a Definitive Agreement is approved and executed by the Parties, this Agreement shall be superseded by such Definitive Agreement.

8.2 Exclusive Nature of Negotiations. The Parties intend that certain aspects of the negotiations conducted pursuant to this Agreement be negotiated exclusively between the Parties. Accordingly, during the Negotiating Period the Redevelopment Agency shall negotiate exclusively with the Developer with respect to the development of the Site.

8.3 Termination of this Agreement. Each Party reserves the right to terminate this Agreement, with or without cause, upon ten (10) days prior written notice to the other Party, thereby withdrawing from such negotiations without any liability to the other Party, except that (i) each Party shall be obligated to promptly return to the other Party all information and materials which such Party has received from the other Party pursuant to this Agreement and (ii) the provisions of Section 9 hereof shall remain in effect. The Parties, by their respective execution hereof, knowingly agree, notwithstanding anything herein to the contrary, that neither of them shall have any right to specific performance of this Agreement, nor any other equitable or damage remedies under the law. Each Party makes such release with full knowledge of Civil Code Section 1542 and hereby waive any and all rights thereunder to the extent of this release, if such Section 1542 is applicable. Section 1542 of the Civil Code provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”
8.4 Mutual Confidentiality. To the extent permitted by applicable law, the Parties shall maintain all information concerning this Agreement and any pending or subsequent negotiations between the Parties as confidential, disclosing information only to those individuals and representatives as designated by the other Party, provided that such individuals acknowledge and agree to maintain the confidentiality of such information.

Section 9. Intentionally Omitted.

Section 10. Notices. Any notices, requests or approvals given under this Agreement from one Party to another may be personally delivered, transmitted by facsimile (FAX) transmission, or deposit with the United States Postal Service for mailing, postage prepaid, to the address of the other Party as stated in this paragraph, and shall be deemed to have been given at the time of personal delivery or FAX transmission or, if mailed, on the third day following the date of deposit in the course of transmission with the United States Postal Service. Notices shall be sent as follows:

If to Redevelopment Agency: Linda N. Andal, Redevelopment Agency Secretary
Anaheim Redevelopment Agency
200 S. Anaheim Boulevard, 2nd Floor
Anaheim, California 92805
FAX No. (714) 765-4105

With copies to: Elisa Stipkovich, Executive Director,
Anaheim Redevelopment Agency
201 S. Anaheim Boulevard, 10th Floor
Anaheim, California 92805
FAX No. (714) 765-4630

John E. Woodhead, Assistant City Attorney
City of Anaheim
200 S. Anaheim Boulevard, 3rd Floor
Anaheim, California 92805
FAX No. (714) 765-4630

If to Developer: Brookfield Southland Holdings LLC
C/O Brookfield Homes
3090 Bristol Street, Suite 200
Costa Mesa, California 92626
Attention: Adrian Foley, President
FAX No. (714) 427-6870

Section 11. Governing Law. This Agreement shall be governed by the laws of the State of California. Any legal action brought under this Agreement must be instituted in the Superior Court of Orange County, State of California, in an appropriate court in that county, or in the Federal District Court in the Central District of California.
Section 12. Attorneys' Fees. If any legal action is brought to enforce, construe, interpret or invalidate the terms of this Agreement, the prevailing party shall be entitled to all costs and expenses incurred in any such action, including court costs and reasonable attorneys' fees, in addition to any other relief to which such party may be entitled.

Section 13. Interpretation. This Agreement shall be interpreted as a whole and in accordance with its fair meaning and as if each Party participated equally in its drafting. Captions are for reference only and are not to be used in construing meaning. The recitals are deemed incorporated into this Agreement.

Section 14. Real Estate Commissions. Each of the Parties represents and warrants to the other Party that no real estate commission, broker's fees, or finder's fees which may accrue by means of the acquisition of an interest in the Site is due to any person, firm or entity except as set forth above; each Party agrees to indemnify and hold the other Party harmless with respect to any judgement, damages, legal fees, court costs, and any and all liabilities of any nature whatsoever arising from a breach of such representation.

Section 15. Amendment of Agreement. No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement executed by each of the Parties.

Section 16. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties concerning this subject. This Agreement integrates all of the terms and conditions mentioned herein or incidental thereto, and supersedes all prior negotiations, discussions and previous agreements between the Parties concerning all or any part of the subject matter of this Agreement.

Section 17. Implementation of Agreement. The Redevelopment Agency shall maintain authority to implement this Agreement through the Executive Director. The Executive Director shall have the authority to issue interpretations, waive provisions, and/or enter into certain amendments of this Agreement on behalf of the Redevelopment Agency so long as such actions do not materially or substantially change the uses or development contemplated hereunder, or add to the costs incurred or to be incurred by the Redevelopment Agency as specified herein, and such interpretations, waivers and/or amendments may include extensions of time to perform. All other materials and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the Governing Board of the Redevelopment Agency.

Section 18. Effective Date of this Agreement. This Agreement shall take effect immediately upon the execution of this Agreement by the Redevelopment Agency (the “Effective Date”).
IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT AS
OF THE RESPECTIVE DATES SET FORTH BELOW.

“REDEVELOPMENT AGENCY”

ANAHEIM REDEVELOPMENT AGENCY,
a public body, corporate and politic

Dated: ________________                    By: ____________________________

ELISA STIPKOVICH,
Executive Director

ATTEST:

LINDA N. ANDAL, REDEVELOPMENT AGENCY SECRETARY

By: ____________________________

LINDA N. ANDAL

APPROVED AS TO FORM:

JACK L. WHITE, CITY ATTORNEY

By: ____________________________

JOHN E. WOODHEAD IV,
Assistant City Attorney

“DEVELOPER”

BROOKFIELD SOUTHLAND HOLDINGS
LLC, a Delaware limited liability company

Dated: ________________                    By: ____________________________

ADRIAN FOLEY,
President

69261.1
State of California  )
  ) ss.
County of _________  )

On ______________, _____, before me, ________
(name, title of officer, e.g., Jane Doe, Notary Public")

personally appeared _____________________________
(name(s) of signer(s))

☐ personally known to me —OR—
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed
the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

Witness my hand and official seal.

(Signature of Notary)

Capacity claimed by signer:
(This section is OPTIONAL.)

☐ Individual
☐ Corporate Officer(s):
☐ Partner(s):
  ☐ General ☐ Limited
☐ Attorney-in-fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
(name of person(s) or entity(ies))

Attention Notary: Although the information requested below is OPTIONAL, it could prevent
fraudulent attachment of this certificate to an unauthorized document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

Title or Type of Document:

Number of Pages: ______  Date of Document: __________
Signer(s) Other than Named Above: __________________________
**Exhibit B**

**List of Agency’s Environmental Reports**

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List of Agency’s Environmental Reports (continued)

Response to Remedial Excavation Closure Report and Completion Letter for Residential Property Development & Polanco Act Immunity

CA Regional Water Quality Control Board  September 27, 2006